



Memorandum

TO: TRANSPORTATION AND
ENVIRONMENT COMMITTEE

FROM: Paul Krutko
Joseph Horwedel

**SUBJECT: PRIVATE SECTOR GREEN
BUILDING PROGRAM**

DATE: September 20, 2007

Approved

Date

9/21/07

Recommendations

- A. Direct staff to formalize the Private Sector Green Building Program for consideration by the City Council; Model the program after the Special Tenant Improvement Program and include recommendations for standards for participation, staff coordination for pre-application meetings and technical review assistance, financial incentives, and staff training.
- B. Direct staff to develop mandatory environmental sustainability checklist for all development projects

Introduction

San Jose has long been a leader in the adoption of environmentally friendly practices. In March 2007, the City Council again provided clear leadership by adopting the Green Building Policy and directing staff to “go for the Gold (LEED standard).” As part of the Council’s deliberations, staff was directed to propose a package of incentives San Jose should introduce to catalyze integration of green building practices by the private sector. Staff presented initial findings from outreach to industry leaders and developers during the June 2007 Transportation & Environment Committee meeting. From these conversations, staff has developed a Private Sector Green Building program that would facilitate and streamline the process for “green” proposals, while providing incentives for early adopters. This memorandum describes the elements of this proposed program for Committee consideration.

Staff requests input from the members of the Transportation & Environment Committee about the proposed program. Upon receipt of feedback from Council Members, staff will conduct one additional round of outreach to the Construction Roundtable and Developers Roundtable, prior to presenting a program to the full City Council in October/November.

Background: Guiding principles for Private Sector Green Building Program

In developing the proposed Private Sector Green Building program, staff worked to incorporate the feedback received during outreach to the private sector conducted in the spring and summer of 2007.

- ***Leverage private sector interest in “going green”:*** Many corporate leaders and housing and commercial developers are reporting a growing demand for energy efficient, green buildings and sustainable practices from shareholders, employees, customers, and homebuyers. Several companies are leading by example in the effort to “go green.” For example, San Jose is home to Adobe’s corporate headquarters, recipient of the world’s first commercial enterprise to receive three U.S. Green Building Council’s Platinum-Level Certifications for Energy and Environmental Design Excellence in existing buildings. More recently, Integrated Design Associates completed the renovation of an existing building into one of the first zero emission and entirely renewable energy powered commercial buildings in the nation. To capitalize on the desire by companies to “go green,” San Jose should ensure that green building projects progress through the development process as efficiently as possible. Further, staff should visit industry leaders to learn about their best practices and then use this knowledge to shape future regulations for sustainable development.
- ***Focus on big impact initiatives:*** Staff repeatedly heard that efforts to stimulate green building practices should focus on initiatives that will have a significant impact on reducing greenhouse gas emissions, reducing non-renewable energy usage, and reducing the harmful byproducts that accompany traditional development. Thought leaders relayed their concerns that the initiatives of many municipalities seem to be more about “press releases” than substantive progress. They urged that the City invest in the staff training necessary to make a Private Sector Green Building program successful, so eventually green building becomes standard procedure. They proposed that adopted policies should be designed to encourage green building technologies, energy efficiency and the use of renewable energy technologies.
- ***Lead by example:*** Business leaders, in particular, articulated that City government must not require anything of the private sector that it is not committed to doing itself. While some thought leaders were aware of the City’s Green Building Policy recently adopted by Council, many suggested that the City should initiate bold demonstration projects that showcase innovative technologies that are locally developed and produced. A few developers suggested that this type of financial and operational commitment would significantly improve the credibility of the City when it encourages participation in a Private Sector Green Building program or eventually adopts regulations. Other ideas for potential partnerships include renewable power generation, recycled water distribution, and bulk purchasing of CleanTech products.
- ***Strive for regional uniformity of regulations:*** Several individuals expressed concern about navigating the wide variety of programs and regulatory environments proliferating

in Silicon Valley and the Bay Area. To address this concern, thought leaders strongly encouraged San Jose to pursue regional integration of uniform green design standards and greenhouse gas emission goals/regulations in order to simplify the regulatory framework within which developers and businesses must operate.

Staff incorporated these principles into the proposed Private Sector Green Building program.

Private Sector Green Building Program Elements

Staff recommends creating a Green Building program for private sector development that mirrors the successful Special Tenant Improvement Program that has facilitated the reuse of vacant buildings throughout the City. Projects that qualify for the Private Sector Green Building program would receive similar specialized attention from trained professionals throughout the development process, which will save the developers time and reduce costs. In an effort to catalyze green building in San Jose, the incentives program would sunset after eighteen months or the completion of thirty projects, at which time the program will be analyzed and modifications will be proposed, if necessary. Further, staff anticipates that green building requirements will likely be required as a result of State or local legislative action within two to three years, which would eliminate the need for a specialized program.

Standards for Participation: Staff recommends that the City require projects to meet a high standard to qualify for participation in the program.

Proposed Standards for Program Participation:

- Commercial new construction or Renovation: Minimum LEED Silver
- Residential new construction: Minimum 80 Green Rating Points

Staff recommends setting a high bar for participation in the initial Private Sector Green Building Program because existing San Jose policies and standards (City's Residential, Commercial, Industrial, Riparian, Storm Water, Construction, and General Plan Policies) already incorporate a significant portion of the points required for certification by the U.S. Green Building Council or the Green Point Rating System. Projects that adhere to the General Plan will already receive a significant number of points, because of the Plan's emphasis on open space, public transportation access, and water efficiency. The City's other existing land use/development and environmental policies also provide points for projects in the areas of public transportation access, landscaping, protection of riparian areas, and the preservation of open space. As the City move towards requiring green building standards, development policies and/or guidelines in the areas of materials and resources, energy and atmosphere, and indoor environmental quality will need to be enhanced in order to align more closely with green building standards.

During conversations with developers, there was some debate over whether an equivalency test should be established to allow projects to qualify for the program without attaining a particular certification. Staff is concerned that such equivalency may not have the independent third-party verification necessary to ensure that environmental standards were met. However, if a project is able to verify that it achieved equivalent standards, such as a zero emission facility, it will be

eligible for participation in the program. Staff experts, such as LEED Accredited Professionals, should make the determination of equivalency on a case-by-case basis.

Pre-Application Meeting & Technical Review/Assistance: The primary benefit of the STI program is the staff coordination to facilitate a project smoothly through the development process. Staff recommends adopting this successful model for the Private Sector Green Building program. Program participants would work with an interdisciplinary work team led by a LEED Accredited Professional or a Certified Green Point Rater and coordinated within the Planning Department. The project team would include representatives from Planning, Building and Code Enforcement (Planning, Structural Architecture, Plumbing/ Mechanical, Electrical), Fire (Prevention, HAZMAT), Environmental Services (Green Building, Water), Economic Development, Transportation, Public Works, and the Redevelopment Agency (if appropriate). In addition, staff will include representatives from PG&E throughout the entire process to projects participating in relevant PG&E programs, such as “Savings by Design.”

Following the pre-application meeting, program participants will receive a single point of contact that will provide technical assistance during the application process. This individual will provide specialized attention and coordination with the other team members to ensure “one voice” service for all green building questions and other permitting inquiries. The staff lead will also coordinate with the applicant and staff to ensure that projects achieve the maximum points during all phases of the project (i.e., several points are available based upon orientation and location of project, which are decisions that are made early during the planning process). Prior to final submission, staff will provide an application review meeting to ensure that all requirements have been fulfilled.

Potential Financial Incentives: Staff has found that many developers are not taking advantage of existing rebates and incentives for water conservation, energy efficiency, and other sustainable practices. First and foremost, the Private Sector Green Building program team will ensure that program participants are fully aware of all environmental incentives that project’s may be eligible for and provide such information early in the development process to allow developers to make informed decisions about which incentives to pursue.

In addition to facilitating participation in existing incentive programs, the existing STI program provides financial incentives including providing coordinated service without additional cost to developers, suspension of construction conveyance taxes, plan check fee deferrals, and phased payment plans. Staff believes that providing financial incentives similar to the STI program to a fixed number of participants in the Private Sector Green Buildings program will encourage early adoption of green building practices. However, staff does not recommend incorporating the conveyance tax suspension component of the STI program into the Private Sector Green Building program because of the importance of having adequate resources available to repair critical infrastructure. As such, staff is working to find a different revenue source that could provide program incentives worth approximately the same amount of the construction tax suspension from a source that would not impact the repair of City infrastructure. Further, staff recommends limiting monetary incentives to projects that achieve an exceptionally high level of LEED certification (Gold or Platinum) or Green Points Rating (110 or more points), rather than

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to all program participants. To limit the fiscal impact of the program on the City budget while stimulating demand for green building, staff proposes limiting the use of financial incentives to the first 30 projects through the pipeline and phasing out the financial incentives after 18 months. Further, accrued costs to the City should be recovered if program participants fail to meet the agreed upon green building standard.

Staff is in the process of developing cost estimates for the various financial incentives. Based upon experience with the STI program, providing financial incentives for only projects attaining either LEED Gold/Platinum or 110 Green Rating Points will require between \$100,000 and \$200,000 of funding, if the incentive amounts are similar to the construction tax suspension. Staff will provide much more accurate cost estimates and potential revenue sources after incorporating input from the Transportation & Environment Committee. Staff will include fiscal incentive options for the program when it is proposed to the full City Council.

In June 2007, the Transportation & Environment Committee debated requiring a Green Fee, similar to the programs in San Francisco and Santa Cruz counties, which would be required for all projects, with the fees returned to applicants that complete projects meeting the required green building standards and contingent upon third-party verification. At this time, staff is not recommending the adoption of such a fee, because of softening credit markets and other cost constraints for developers building the commercial structures that San Jose needs to grow its capacity for job creation. As the Private Sector Green Building program expands, staff recommends transitioning away from incentives towards a requirement to build green or pay a fee.

Staff Training: In order to provide streamlined service to the Private Sector Green Building Program participants, staff must have the training and knowledge to facilitate such projects. Staff recognizes the need to increase the base knowledge of appropriate staff about green building practices. Further, each division within the development services departments must have accredited Green Building professions, who can act as green building experts for their colleagues. Thirteen key staff members from Environmental Services, Public Works, Airport, Redevelopment Agency, City Manager's office and PBCE's Building Division are already LEED Accredited, and several additional staff members are currently going through the accreditation process. In addition, Planning has recently hired a "Green Planner" as part of the 2007-08 Adopted Budget process and a coordinated budget request prepared by ESD. Staff recommends that we continue to expand staff education through existing training opportunities and organize LEED Accreditation and Green Point Rater certification training for all Green Building Team participants over the next several months. Providing quality training and certification opportunities for staff will cost approximately \$25,000, exclusive of the lost revenues from staff time. This investment in training will build a knowledge base within the City organization as the City moves towards requiring such standards.

Regulations: Based on tracking and analysis of current and proposed state legislation, staff anticipates that green construction will be required by law within three years, either through State legislation or building code changes, regional agreement, or local legislative action. Staff recommends partnering with civic organizations, such as the Silicon Valley Leadership Group,

Joint Venture Silicon Valley, and the Santa Clara County Cities Association, to lead a regional effort to adopt uniform green building and energy efficiency standards that will achieve the desired environmental objectives without placing any community at a disadvantage in the competition for jobs and development. Further, staff recommends that the organization must increase its knowledge base and ability to facilitate green building projects prior to any regulatory requirement. Once this capacity is created, however, staff does recommend revisiting the possibility of mandated green building practices after eighteen months of the initial Private Sector Green Building program.

Increasing Awareness: Green Building Checklist for all Development

In addition to creating a program to catalyze green building in the private sector, staff believes that it is vitally important to increase community and private-sector awareness of environmentally sustainable practices. Through its outreach efforts, staff has learned that there is significant amount of misinformation about green building practices and costs in the community. While many developers profess a desire to build green they are concerned about bearing any additional costs. However, recent studies are showing that the construction cost differentials are decreasing, that a consumer market is emerging for green buildings, and that the energy savings amortize any additional cost in the first few years or less. As such staff will provide information about green building to all developers during the development process through the introduction of a mandatory "checklist" that would list ways in which buildings could be made more environmentally sustainable.

Require Checklist for all Development: Staff recommends requiring completion of a Green Building Checklist as a standard part of the permit process. The checklist would list ways in which buildings can become environmentally sustainable. Such a requirement will quickly raise awareness of green building practices and provide allow developers to make an informed decision about whether to make a project green and participate in the City program. Such information will also help facilitate the transition towards green building standards, which would be similar to the contents of the checklists.

Following successful models in other communities, staff recommends requiring a Green Building Checklist for the following types of development:

- Commercial new construction: LEED New Construction Checklist
- Commercial renovation (5,000+ sf): LEED Existing Building Checklist
- Residential new construction (single and multi-unit): Green Point Rating Checklist

Residential renovation would not require a completed checklist until LEED finalized the standards, instead information will be provided listing energy efficiency measures and other resource conservation measures that individuals can adopt.

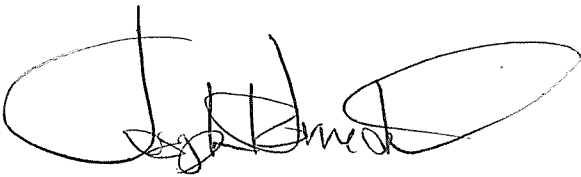
The Green Building Checklist information would accompany an individual project file and be provided to the Planning Commission and City Council, if an item requires Council action.

Proposed Timeline:

- October 1, 2007:** Presentation to Transportation & Environment Committee
- October 2007:** Additional outreach to Developer and Construction Roundtables
- October/November 2007:** Presentation of Private Sector Green Building Program to City Council (dependent upon modifications requested by Transportation & Environment Committee)
- Suspension of taxes will require the adoption of an ordinance which will require a second reading and then become effective within 30 days.
- November/December 2007:** Staff training for Green Building team members to ensure streamlined service
- January 2008:** Formal Introduction of Program
(incentives limited to first thirty participants)

Coordination:

This memorandum has been coordinated with the Department of Environmental Services, the Housing Department, the City Attorney's Office, the Department of Transportation, the Budget Office, and the San Jose Redevelopment Agency.



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